

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 IN THE STATE OF ARIZONA

3 In the Matter of

Board Case No. MD-01-0377

4 **BRYAN GUNNOE, M.D.**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

5 Holder of License No. 22817
6 For the Practice of Medicine
7 In the State of Arizona.

(Letter of Reprimand & Probation)

8 This matter was considered by the Arizona Board of Medical Examiners ("Board")
9 at its public meeting on August 17, 2001. Bryan Gunnoe, M.D., ("Respondent") appeared
10 before the Board without legal counsel for a formal interview pursuant to the authority
11 vested in the Board by A.R.S. § 32-1451(I). After due consideration of the facts and law
12 applicable to this matter, the Board voted to issue the following findings of fact,
13 conclusions of law and order.
14

15 **FINDINGS OF FACT**

16 1. The Board is the duly constituted authority for the regulation and control of
17 the practice of allopathic medicine in the State of Arizona.

18 2. Respondent is the holder of License No. 22817 for the practice of medicine
19 in the State of Arizona.

20 3. In March of 2000, Respondent voluntarily entered the Board's Monitored
21 Aftercare Program ("Program") on a confidential basis pursuant to the terms of a
22 stipulated rehabilitation agreement ("Agreement") entered into between Respondent and
23 the Board.

24 4. The terms of the Agreement required Respondent to provide biological fluid
25 specimens as requested by the Program coordinators.

1 5. On July 29, 2000, Respondent failed to provide a biological fluid sample in
2 accordance with the terms of the Agreement.

3 6. The Board sent Respondent a letter informing him that he failed to provide
4 biological specimens and that his failure to comply with the terms of his agreement was
5 discussed with the Program coordinator. Respondent was also informed that in the event
6 he again failed to provide a specimen the matter would be considered by the Board's
7 Diversion Committee with a possible recommendation to the Board for a disciplinary
8 action.

9 7. On November 24, 2000, Respondent was paged in order to send him to
10 provide a biological fluid sample.

11 8. Respondent did not respond to the page. Respondent's explanation for not
12 responding to the page was that he had changed his pager number and had not given
13 the Board the new pager number.

14 9. The terms of the Agreement require Respondent to provide current phone
15 and pager numbers.

16 10. The Diversion Committee discussed Respondent's failure to comply with
17 the terms of the Agreement and recommended that Respondent complete an inpatient
18 evaluation for chemical dependency.

19 11. Respondent was evaluated and no evidence of a relapse was found.

20 12. The Diversion Committee discussed the inpatient evaluation and
21 Respondent's noncompliance at its May 23, 2001 meeting and recommended that an
22 investigation be opened regarding Respondent's noncompliance.

23 13. The Diversion Committee noted that Respondent had violated the terms of
24 the Agreement, but had not relapsed.

14. Prior to the August 17, 2001 Board meeting, Respondent failed to provide another biological fluid specimen.

15. Respondent had not been previously excused from providing the samples, nor was he unavailable because of his medical duties.

CONCLUSIONS OF LAW

1. The Board of Medical Examiners of the State of Arizona possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances above in paragraphs 5, 8, 13 and 14 constitute unprofessional conduct pursuant to A.R.S. § 32-1401 (25)(r) "[v]iolating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under the provision of this chapter."

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that:

1. Respondent is hereby issued a Letter of Reprimand for the unprofessional conduct described above.

2. Respondent is placed on Probation for five years with the following terms and conditions:

a. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation. The declarations shall be submitted on or before the 15th of

1 March, June, September and December of each year, beginning on or before December
2 15, 2001.

3 b.1. **Participation.** Respondent shall promptly enroll in and participate in the
4 Board's substance abuse treatment and rehabilitation program (hereafter, "MAP"). As
5 part of said participation in MAP, Respondent shall cooperate with the Board's staff and
6 contracting MAP supervisors.

7 2. Respondent's participation in the program may be unilaterally terminated at
8 the discretion of the Board at any time after issuance of this Order, with or without cause
9 for termination.

10 3. If the Board (or its Executive Director) conclude that it is appropriate, this
11 matter may be referred for further proceedings or investigation to the extent authorized by
12 Board statutory authority or other applicable law to consider all relevant issues of
13 Respondent's professional conduct and ability to safely and ethically engage in the
14 practice of medicine.

15 4. Respondent's participation in the Monitored Aftercare Program will
16 terminate at the end of five (5) years unless the Board issues an Order authorizing earlier
17 termination or extending the time period.

18 5. **Group Therapy.** Respondent shall attend the program's group therapy
19 sessions one time per week for the duration of this Order, unless excused by the group
20 therapist for good cause such as illness or vacation. Respondent shall instruct the
21 program group therapist to release to the Board, upon its request, all records relating to
22 Respondent's treatment, and to submit monthly reports to the Board regarding
23 attendance and progress. The reports shall be submitted on or before the 10th day of
each month.

24 6. **Board-Approved Primary Care Physician.** Respondent shall promptly
25 obtain a primary care Physician and shall submit the name of the Physician to Board staff
in writing for approval.

1 7. The Board-approved primary care Physician shall be in charge of providing
2 and coordinating Respondent's medical care and treatment. Except in an *Emergency*,
3 Respondent shall obtain Respondent's medical care and treatment only from the Board-
4 approved primary care Physician and from health care providers to whom the Board-
5 approved primary care Physician refers Respondent from time to time. Respondent shall
6 request that the Board-approved primary care Physician document all referrals in the
7 medical record.

8 8. Respondent shall promptly inform the Board-approved primary care
9 Physician of Respondent's rehabilitation efforts and provide a copy of this Order to that
10 Physician. Respondent shall also inform all other health care providers who provide
11 medical care or treatment that Respondent is participating in the Board's rehabilitation
12 program.

13 9. **Medication.** Except in an *Emergency*, Respondent shall take no
14 *Medication* unless the *Medication* is prescribed by Respondent's Board-approved primary
15 care Physician or other health care provider to whom the Board-approved primary care
16 Physician makes a referral. Respondent shall not self-prescribe any *Medication*.

17 10. If a controlled substance is prescribed, dispensed, or is administered to
18 Respondent by any person other than the Board-approved primary care Physician,
19 Respondent shall notify the Board-approved primary care Physician in writing within 48
20 hours. The notification shall contain all information required for the medication log entry
21 specified in paragraph 13. Respondent shall request that the notification be made a part
22 of the medical record. This paragraph does not authorize Respondent to take any
23 *Medication* other than in accordance with paragraph 11.

24 11. **Medication Log.** Respondent shall maintain a current legible log of all
25 *Medication* taken by or administered to Respondent, and shall make the log available to
the Board and its staff upon request. For *Medication* (other than controlled substances)
taken on an on-going basis, Respondent may comply with this paragraph by logging the

1 first and last administration of the *Medication* and all changes in dosage or frequency.

2 The log, at a minimum, shall include the following:

- 3 a. Name and dosage of *Medication* taken or administered;
- 4 b. Date taken or administered;
- 5 c. Name of prescribing or administering Physician;
- 6 d. Reason *Medication* was prescribed or administered.

7 This paragraph does not authorize Respondent to take any *Medication* other than in
8 accordance with paragraph 11.

9 **12. No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or
10 any food or other substance containing poppy seeds.

11 **13. Biological Fluid Collection.** During all times that Respondent is physically
12 present in the State of Arizona and such other times as Board staff may direct,
13 Respondent shall promptly comply with requests from Board staff, the group therapist, or
14 the program director to submit to witnessed biological fluid collection. If Respondent is
15 directed to contact an automated telephone message system to determine when to
16 provide a specimen, Respondent shall do so within the hours specified by Board staff.
17 For the purposes of this paragraph, in the case of an in-person request, "promptly
18 comply" means "immediately". In the case of a telephonic request, "promptly comply"
19 means that, except for good cause shown, Respondent shall appear and submit to
20 specimen collection not later than two hours after telephonic notice to appear is given.
21 The Board in its sole discretion shall determine good cause.

22 **14.** Respondent shall provide Board staff in writing with one telephone number
23 that shall be used to contact Respondent on a 24 hours per day/seven days per week
24 basis to submit to biological fluid collection. For the purposes of this section, telephonic
25 notice shall be deemed given at the time a message to appear is left at the contact
telephone number provided by Respondent. Respondent authorizes any person or

1 organization conducting tests on the collected samples to provide testing results to the
2 Board and the program Director.

3 15. Respondent shall cooperate with collection site personnel regarding
4 biological fluid collection. Repeated complaints from collection site personnel regarding
5 Respondent's lack of cooperation regarding collection may be grounds for termination
6 from the program.

7 16. **Payment for Services.** Respondent shall pay for all costs, including
8 personnel and contractor costs, associated with participating in the Monitored
9 Aftercare Program (MAP) at time service is rendered, if required, or within 30 days
10 of each invoice sent to Respondent.

11 17. **Examination.** Respondent shall submit to mental, physical, and medical
12 competency examinations at such times and under such conditions as directed by the
13 Board to assist the Board in monitoring Respondent's ability to safely engage in the
14 practice of medicine and compliance with the terms of this Order.

15 18. **Treatment.** Respondent shall submit to all medical, substance abuse, and
16 mental health care and treatment ordered by the Board, or recommended by the program
17 director.

18 19. **Obey All Laws.** Respondent shall obey all federal, state and local laws,
19 and all rules governing the practice of medicine in the State of Arizona.

20 20. **Interviews.** Respondent shall appear in person before the Board and its
21 staff and committees for interviews upon request, upon reasonable notice.

22 21. **Address and Phone Changes, Notice.** Respondent shall immediately
23 notify the Board in writing of any change in office or home addresses and telephone
24 numbers. Respondent shall provide Board staff at least three business days advance
25 written notice of any plans to be away from office or home for more than five (5)
consecutive days. The notice shall state the reason for the intended absence from home
or office, and shall provide a telephone number that may be used to contact Respondent.

1 **22. Relapse, Violation.** In the event of chemical dependency relapse by
2 Respondent or use of drugs or alcohol by Respondent in violation of this Order,
3 Respondent shall promptly enter into a Interim Stipulated Agreement that requires,
4 among other things, that Respondent not practice medicine until such time as
5 Respondent successfully completes an inpatient or residential treatment program for
6 chemical dependency designated by the Board or staff and obtains the affirmative
7 approval of the Board to return to the practice of medicine. Prior to approving
8 Respondent's request to return to the practice of medicine, the Diversion Committee may
9 require Respondent to submit to witnessed biological fluid collection, undergo any
10 combination of a physical examination, psychiatric or psychological evaluation and/or to
11 successfully pass the special purpose licensing examination or the Board may conduct
12 interviews for the purposes of assisting it in determining the ability of Respondent to
13 safely return to the practice of medicine. In no respect shall the terms of this paragraph
14 restrict the Board's authority to initiate and take disciplinary action for violation of this
15 Order.

16 **23. Notice Requirements.**

17 (a) Respondent shall immediately provide a copy of this Order to all
18 hospitals and free standing surgery centers at which Respondent has any
19 privileges. Within 30 days of the date of the Order, Respondent shall provide the
20 Board with a signed statement that the Respondent has complied with this
21 notification requirement.

22 (b) Respondent is further required to notify, in writing, all hospitals and free
23 standing surgery centers at which Respondent has any privileges of a chemical
24 dependency relapse, use of drugs or alcohol in violation of this Order and/or entry
25 into a treatment program. Respondent shall provide the Board, within seven days
of any of these events, written confirmation that Respondent has complied with
this notification requirement.

24. **Public Record.** This Order is a public record document and, therefore, may
be disclosed to the extent required by law.

25. Out-of State. In the event Respondent resides or practices medicine in a state other than Arizona, Respondent shall participate in the physician rehabilitation program sponsored by that state's medical licensing authority or medical society. Respondent shall cause the other state's program to provide written reports to the Board regarding Respondent's attendance, participation, and monitoring. The reports shall be due on or before the 15th day of March and September of each year, until the Board terminates this requirement in writing.

26. Treating Therapist. Respondent shall immediately obtain a treating therapist approved by Board Staff and shall remain in treatment with the therapist until further order of the Board. Respondent shall instruct the therapist to release to the Board, upon its request, all records relating to Respondent's treatment, and to submit quarterly written reports to the Board regarding diagnosis, prognosis and recommendations for continuing care and treatment of Respondent. The reports shall be submitted on or before the 15th day of March, June, September, and December of each year, beginning on or before December 15, 2001.

II. Definitions

1. **"Medication"** means "prescription-only drug, controlled substance, and over-the counter preparation, other than plain aspirin and plain acetaminophen."

2. **"Emergency"** means "a serious accident or sudden illness that, if not treated immediately, may result in a long-term medical problem or loss of life."

RIGHT TO PETITION FOR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing must be filed with the Board's Executive Director within thirty (30) days after service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient reasons for granting a

1 rehearing. Service of this order is effective five (5) days after date of mailing. If a motion
2 for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it
3 is mailed to Respondent.

4 Respondent is further notified that the filing of a motion for rehearing is required to
5 preserve any rights of appeal to the Superior Court.

6 DATED this 12th day of October, 2001.

7
8 BOARD OF MEDICAL EXAMINERS
9 OF THE STATE OF ARIZONA

10 By Claudia Foutz
11 CLAUDIA FOUTZ
12 Executive Director
13 TOM ADAMS
Deputy Director

14 ORIGINAL of the foregoing filed this
15 12 day of October, 2001 with:

16 The Arizona Board of Medical Examiners
17 9545 East Doubletree Ranch Road
18 Scottsdale, Arizona 85258

19 Executed copy of the foregoing
20 mailed by U.S. Certified Mail this
21 12 day of October, 2001, to:

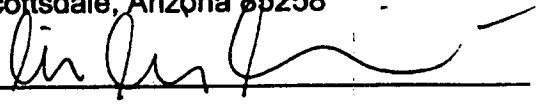
22 Bryan Gunnoe, M.D.
23 1050 Gail Gardener Way #100
24 Prescott, Arizona 86305

25 Copy of the foregoing hand-delivered this
26 12 day of October, 2001, to:

27 Christine Cassetta
28 Assistant Attorney General
29 Sandra Waitt, Management Analyst
30 Lynda Mottram, Compliance Officer
31 Lisa Maxie-Mullins, Legal Coordinator (Investigation File)
32 Arizona Board of Medical Examiners

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9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

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1 **BEFORE THE ARIZONA MEDICAL BOARD**

2
3 In the Matter of

4 **BRYAN GUNNOE, M.D.**

5 Holder of License No. 22817
6 For the Practice of Allopathic Medicine
7 In the State of Arizona.

Board Case No. MD-01-0377

**AMENDMENT TO ORDER
FOR LETTER OF REPRIMAND
AND PROBATION DATED
OCTOBER 12, 2001**

8 At its public meeting on December 1, 2004 the Arizona Medical Board ("Board") was
9 presented with the request of Bryan Gunnoe, M.D. ("Respondent") to modify the Order for
10 Letter of Reprimand and Probation ("Board Order") entered by the Board on October 12,
11 2001. Respondent requested that the Board remove Paragraph 26 of the Board Order
12 requiring he remain in treatment with a therapist. The terms and conditions of the Board
13 Order are incorporated herein by reference.
14

15 The Board was informed that Respondent's therapist had recommended that the
16 requirement be removed as Respondent no longer required the therapy. The Board was
17 also informed that the Board's contracted addiction medicine specialists supported the
18 request. The Board voted to amend the Board Order by issuing the following Order after
19 due consideration of the facts and law applicable to this matter.
20

ORDER

21 IT IS HEREBY ORDERED that:

22 Paragraph 26 of the Board Order dated October 12, 2001 is deleted.
23
24
25

1 DATED this 8th day of December, 2004.

2 ARIZONA MEDICAL BOARD

3
4
5 By Barbara Kane

6 BARBARA KANE
7 Assistant Director

8 ORIGINAL of the foregoing filed this
9 8th day of December, 2004 with:

10 The Arizona Medical Board
11 9545 East Doubletree Ranch Road
12 Scottsdale, Arizona 85258

13 Executed copy of the foregoing
14 mailed by U.S. Certified Mail this
15 8th day of December, 2004, to:

16 Bryan Gunnoe, M.D.
17 Address of Record

18 Bryan Gunnoe
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